No. 84-1002

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In the Supreme Court of the United States

OCTOBER TERM, 1984

UNITED TELECOMMUNICATIONS, INC., et al.,
Petitioners,

vs.

DALE E. SAFFELS, United States District Judge for the District of Kansas,
Respondent,

PHYLLIS WILSON HOFFMAN and EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Respondents and Real Parties in Interest.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF OF RESPONDENT PHYLLIS WILSON HOFFMAN IN OPPOSITION

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QUESTION PRESENTED

Whether the Equal Employment Opportunity Commission may seek relief for individuals in addition to the private plaintiff when it intervenes permissively in a private Title VII class action pursuant to Section 706(f)(1) of the Civil Rights Act of 1964, as amended.

LIST OF PARTIES

Parties to the proceedings in the United States Court of Appeals for the Tenth Circuit were: Phyllis Wilson Hoffman; The Honorable Dale E. Saffels, United States District Judge for the District of Kansas; the Equal Employment Opportunity Commission; and United Telecommunications, Inc., and the following of its subsidiaries:

United System Service, Inc.
Carolina Telephone & Telegraph Company
United Telephone Company of Ohio
Capital City Telephone Company
United Telephone Company of Iowa
United Telephone Company of Kansas, Inc.
United Telephone Company of Minnesota (Pioneer United)
United Telephone Company of Missouri
United Telephone Company of Arkansas
Mid-State Telephone Company
United Telephone Company of Florida
United Telephone Company of the Northwest
California-Oregon Telephone Company
East Peninsula Telephone Company
Florida Telephone Corporation
New Jersey Telephone Company
United Telephone Company of Pennsylvania (Peoples)
Gulf States-United Telephone Company (Palestine & Navasoto merged into)
Palo Pinto Telephone Company, Inc.
United Telephone Company of Indiana, Inc.
United Telephone Company of Michigan (Augusta)

United Inter-Mountain Telephone Company
United Telephone Company of the Carolinas, Inc.
Keller Telephone Company
Alexandria Telephone Cable Company
Blacktown Telephone Company (Subsidiary of United Telecommunications, Inc. operated by United Telephone Company of Pennsylvania)
North Electric Company
ULI Leasing, Incorporated
North Electric Company Supply Division
Rixon Electronics, Inc.
United Computing Systems, Inc.
UCS, Inc.
United Business Communications
Central Kansas Power Company, Inc.
National Datacenter
CITICOM, Inc.
National Laboratory of Urban Communications, Inc.
The Citizens Ice Company

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF OF RESPONDENT PHYLLIS WILSON HOFFMAN IN OPPOSITION

OPINIONS BELOW

The April 11, 1984, Memorandum and Order of the District Court is unreported. It is reproduced at Appendix B, pp. 6a-10a, of the Petition. The opinion of the Court of Appeals for the Tenth Circuit is reported at 741 F.2d 312 (10th Cir. 1984).

STATEMENT OF THE CASE

On November 5, 1976, Phyllis Wilson Hoffman filed this suit in the United States District Court for the District of Kansas on behalf of herself and all other persons similarly situated against United Telecommunications, Inc. and 38 of its subsidiaries. She alleged that defendants had discriminated against her and all other members of the class she represents on the basis of sex in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.* *See* Pet. A. 25a-41a.[1] Hoffman had complied with all statutory prerequisites to her suit. See Resp. A. A1-A4. On June 30, 1977, the Equal Employment Opportunity Commission ("EEOC") filed a Certificate of General Public Importance, Resp. A. A5, and moved to intervene in Hoffman's action. *See* Pet. A. 42a-54a. On September 21, 1977, the District Court granted EEOC's motion.[2]

After defendants resisted discovery and jurisdiction for over seven years, on December 8, 1983, the District Court entered an order upholding personal jurisdiction

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1. References to "Pet. A." refer to the appendices attached to the Petition for Writ of Certiorari. References to "Resp. A." refer to the appendices attached to this Brief in Opposition.

2. The District Court's order stated:

> The court finds that the EEOC's application for intervention is timely; that intervention will cause, if anything, no more than the ordinary and minimal delay and prejudice that often attends addition of a new party to a lawsuit; that EEOC intervention may be helpful in illuminating the issues herein and expediting resolution of the respective claims of the parties; *that the case is one of general public importance;* and that the claims of the EEOC involve questions of law and fact common to those of the main action. Accordingly, the EEOC's motion to intervene shall be sustained and the clerk is hereby directed to file the intervenor's complaint. (Emphasis supplied.)

over all defendants. 575 F.Supp. 1463 (D. Kan. 1983). On January 27, 1984, Hoffman and EEOC filed a joint Motion to Deem EEOC as Representative of the Class described in Hoffman's complaint. Their reasons for the motion were to "expedite this matter by avoiding the discovery and hearings necessary to obtain a determination pursuant to Rule 23 of the Federal Rules of Civil Procedure." Memorandum in Support of Plaintiff and Plaintiff-Intervenor's Motion to Deem EEOC as Representative of the Class at 4-5. Since EEOC had been permitted to intervene for all purposes and since the scope of the litigation was not being enlarged, the parties hoped to move the case along by preventing further delay on purely procedural matters. On April 11, 1984, the District Court granted the joint motion. On June 8, 1984, defendants petitioned the United States Court of Appeals for the Tenth Circuit for a writ of mandamus. On August 7, 1974, the Court of Appeals dismissed defendants' petition for want of jurisdiction.

REASONS FOR DENYING THE WRIT

The Petition for Writ of Certiorari mischaracterizes the issue involved in the Tenth Circuit's opinion and accordingly misstates the applicable law. This case is a private Title VII class action in which the District Court has permitted EEOC to intervene pursuant to Section 706 (f) (1) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f) (1). EEOC met the only statutory prerequisite to intervention when it filed a certificate of general public importance. Resp. A. A5. EEOC is now entitled to fulfill its role, recognized by this Court, of acting in the public interest in preventing and remedying employment discrimination. This may include seeking relief for individuals other than the charging party. Neither

the statute, the legislative history, nor the decisions of this Court require the completion of any further administrative procedures. The prerequisites that petitioners would have this Court apply would be meaningless at this point in the litigation, and, in any event, they have no logical relationship to the form of relief sought. As discussed below, petitioners have failed to present any "special and important reasons" justifying review by this Court. Supreme Court Rule 17.1.

The writ should also be denied because mandamus is not appropriate in this case. The Petition is a blatant attempt to avoid the command of the final decision rule and should be rejected.

ARGUMENT

I. The District Court's Order of April 11, 1984, Is Totally Consistent With the Plain Meaning and Purpose of Section 706(f)(1).

A. Only the Intervention Provisions of the Statute Apply to This Case.

Petitioners mislead this Court by their constant attempts to characterize this action as a direct suit by EEOC. Petitioners insist on describing this case as if it were two separate Title VII proceedings, one filed by respondent Hoffman, and one filed by EEOC, which were consolidated for discovery and trial. Thus, the entire basis for the Petition is petitioners' insistence that this proceeding is defective because EEOC has not complied with those provisions of § 706 that contain the prerequisites to direct suit by EEOC. This is not, however, a consolidated proceeding, but rather a private Title VII class action filed

by respondent Hoffman in which EEOC has intervened pursuant to other, separate provisions of § 706.

The plain language of the statute provides absolutely no support for petitioners' contention that the prerequisites for direct suit by EEOC apply when EEOC has intervened in a private action. Indeed, the statute could hardly be clearer. Title VII contemplates two avenues by which EEOC may enforce the Act in the federal courts. First, it may file a direct action in its own name. As a prerequisite to such an action, §§ 706(b) and 706(f)(1) prescribe the administrative prerequisites of a reasonable cause finding and conciliation. Second, EEOC may, with leave of court, intervene permissively in a pending Title VII action brought by a private party. In that case, § 706(f)(1) also prescribes an administrative prerequisite, the certification by EEOC that the case is of general public importance. At no point in these proceedings have petitioners disputed that EEOC has fulfilled the prerequisite to intervention in this suit. *See* Resp. A. A5. No possible reading of Title VII could result in a finding that EEOC has not complied with all applicable requirements to intervention.

B. EEOC May Represent the Public Interest When It Intervenes.

Petitioners' second error is their assertion that when EEOC intervenes in a private action, it may not fulfill its statutory role of protecting the public interest without also complying with the administrative prerequisites to a direct suit. Neither the statute nor this Court's decisions support petitioners' position. As this Court stated in *General Telephone Co. of the Northwest, Inc. v. EEOC*, 446 U.S. 318 (1980), "the clear purpose of Title VII," *id.* at 324, requires that "[w]hen the EEOC acts, *albeit at the*

behest of and for the benefit of specific individuals, it acts also to vindicate the public interest in preventing employment discrimination," *id.* at 326 (emphasis added), and that forcing EEOC to comply with the requirements of Federal Rule of Civil Procedure 23 "might disable the enforcement agency from advancing the public interest in the manner and to the extent contemplated by the statute." *Id.* at 331. Although *General Telephone of the Northwest* happened to involve a suit brought by EEOC in its own name, its rationale applies equally to private suits in which EEOC has been permitted to intervene. There is no indication in this Court's opinion in *General Telephone of the Northwest* that the fulfillment of one set of statutory prerequisites to suit—the reasonable cause and conciliation requirements—could substitute for Rule 23, while the other prerequisite—the certification of general public importance—could not. Moreover, there is nothing in the language of § 706(f)(1) to support petitioners' contention that compliance with the requirements for intervention somehow limits EEOC to seeking relief only for the named private plaintiff. Indeed, the legislative history of the intervention provision of § 706(f)(1) indicates that its purpose is "to protect the Commission's interest in a case where [a] private litigant is involved." 118 Cong Rec. 4814 (1972).[3] That interest, as this Court recognized in *General Telephone,* is the public interest, which can require the representation of more than the

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3. There is almost no legislative history dealing with the EEOC's right to intervene. The issue was not discussed during the Senate and House debates on the 1972 amendments. Most of the proposed bills contained the intervention power, and the conference committee report, which adopted the intervention provision of § 706(f)(1), did not comment on it. S. Rep. No. 92-681, 92d Cong. 2d Sess. (1972). *See generally* Sape & Hart, *Title VII Reconsidered: The Equal Employment Opportunity Act of 1972,* 40 Geo. Wash. L. Rev. 824, 874-75 (1972).

specific individuals who filed charges with EEOC or who filed suit in federal court.

The administrative prerequisites to suit have nothing to do with the form of relief ultimately sought by EEOC or with the number of victims of discrimination whose interests are ultimately represented by EEOC. Their only relationship is the same that exists in any civil action between compliance with a requirement such as the statute of limitations and the relief sought by a plaintiff. Suit must be filed in time, or else no relief may be sought at all, but once a timely suit has been filed, the statute of limitations becomes legally irrelevant to whether or how much plaintiff recovers. Similarly, once the administrative procedures applicable to the manner in which EEOC becomes a litigant have been fulfilled, they are legally irrelevant to the nature of the relief sought by EEOC.

The purpose of the reasonable cause and conciliation prerequisites to direct suit by EEOC is to attempt to achieve voluntary compliance "in an informal, noncoercive fashion," and to avoid litigation by exploring settlement alternatives, "whenever possible . . . before suit is brought in federal court." *Occidental Life Insurance Co. of California v. EEOC*, 432 U.S. 355, 368 (1977). Congress was fully aware of the enormous backlog in the EEOC's caseload at the time of the 1972 amendments to Title VII that gave EEOC the right to file suit, *see, e.g.*, House Report No. 92-238, at 12-13, 92d Cong., 1st Sess. (1971), and, therefore, it retained the private cause of action. Congress also, however, envisioned a time when the backlog would be eliminated and EEOC would be the primary enforcer of the Act. "It is hoped that recourse to the private lawsuit will be the exception and not the rule . . ." 118 Cong. Rec. 7168 (1972) (section-by-section analysis

of Conference Report). Unfortunately, congressional hopes have not yet been met, and most Title VII suits are filed by private plaintiffs. Considerations of the voluntary compliance that might be achieved if EEOC is the only potential plaintiff no longer exist when the charging party has exercised her statutory right to sue, as respondent Hoffman has done here. Litigation can no longer be avoided, and, therefore, the rationale of the conciliation requirement has been rendered meaningless in such cases. Congress recognized this possibility by establishing the EEOC's right to intervene in private suits and requiring only that EEOC certify that its intervention is in the public interest.

Petitioners cannot point to any statutory purpose that would be served by compliance with the now inapplicable prerequisites to direct EEOC suit.[4] Not only is the only identifiable purpose of the prerequisites to direct suit absent when EEOC has intervened in pending litigation, but limiting *General Telephone of the Northwest* to direct EEOC suits would thwart the effective enforcement of Title VII. In the Tenth Circuit, the filing of a private Title VII action cuts off EEOC's ability to bring a direct suit based on the private plaintiff's charge and relegates the Commission to intervention in the private suit.[5] *EEOC*

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4. It should be noted that on several occasions, respondent Hoffman and EEOC have suggested the solution of the Eighth Circuit in a similar case, a sixty-day stay pending conciliation. *See Johnson v. Nekoosa-Edwards Paper Co.*, 588 F.2d 841 (8th Cir. 1977), *cert. denied sub nom. Nekoosa Papers, Inc. v. EEOC*, 434 U.S. 920 (1977). Petitioners have never responded to these offers. Moreover, representatives of EEOC met with petitioners as early as 1979 in an attempt to conciliate, with no success.

5. This fact alone serves to distinguish the footnote in *Horn v. Eltra Corp.*, 686 F.2d 439, 441 n.1 (6th Cir. 1982), on which petitioners rely. *Horn* was an appeal by EEOC from an order revoking its status as a permissive intervenor. While the

(Continued on following page)

v. Continental Oil Co., 548 F.2d 884 (10th Cir. 1977). Since a charging party may demand a right-to-sue letter and file suit at any time following the expiration of 180 days from the date the charge is filed, private suits involving issues of public concern may well be filed long before EEOC has had an opportunity to complete its administrative process. *Mills v. Bartenders International Union Local No. 41*, 21 F.E.P. 42 (N.D. Cal. 1975). To hold that *General Telephone of the Northwest* applies only to EEOC suits in its own name would be to subject the agency's ability to further the statutory purpose of effective enforcement of Title VII to the actions or inactions of charging parties, who are not within the Commission's control.

In 1976, when plaintiff exercised her right to demand a right-to-sue letter and file her private Title VII action, the EEOC's backlog of unprocessed charges was notorious.[6] A plaintiff who believed she had a meritorious case, as does respondent Hoffman, would have been ill-advised to allow evidence to become stale or witnesses to disappear while waiting for EEOC to act. By obtaining her right-to-sue letter and filing this action, plaintiff followed the prudent course, but once she did so, EEOC was no longer free to file its own direct action. In allowing plaintiffs

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Footnote continued—

appeal was pending, the private plaintiff's claim was settled, and the Sixth Circuit dismissed the appeal as moot. In the Sixth Circuit, however, a private Title VII action does *not* bar a subsequent direct EEOC suit based on the same charge. *See EEOC v. Kimberly-Clark Corp.*, 511 F.2d 1352 (6th Cir.), *cert. denied*, 423 U.S. 994 (1975). Even if there were a statutory purpose for conciliation once suit has been filed, it makes little sense to require the completion of prerequisites to a suit that cannot be brought.

6. In December 1977, the EEOC had a backlog of 99,000 charges. *Equal Employment Opportunity Commission, 17th Annual Report* 12 (1984).

to sue before completion of EEOC's processes, Congress cannot have intended to eliminate EEOC's later ability to enforce the Act in the public interest. For this reason, it provided that EEOC may intervene in private suits. It would violate the rationale and the public policy considerations of *General Telephone of the Northwest* to hold that EEOC may not represent the public interest under these circumstances.

C. The District Court's Ruling Will Not Cause a Flood of Litigation.

Petitioners contend that the district court's decision will cause a flood of Title VII litigation. This is not true. First, once EEOC has complied with the prerequisites for intervention under § 706(f)(1), the decision whether it will be permitted to intervene and, if so, under what conditions, are left to the discretion of the district court. As with any permissive intervention, the court may always control the extent of the intervenor's participation. *See generally* 7A C. Wright & A. Miller, *Federal Practice and Procedure*, §§ 1913, 1922 (1972 and Supp. 1984). Second, fears of massive EEOC litigation cannot be based on current data concerning the agency's activity. During the twelve-month period ending June 30, 1982, 7,689 employment civil rights cases were filed in the federal courts. *Annual Report of the Director of the Administrative Office of the United States Courts* 135 (1983), *contained in Reports of the Proceedings of the Judicial Conference of the United States* (1983). By comparison, in fiscal year 1982, EEOC filed 101 direct suits under Title VII, and intervened in only two private suits. *Equal Employment Opportunity Commission, 17th Annual Report* 25 (1984). In the year ending June 30, 1981, there were a total of 6,245 Title VII cases filed in the federal courts, *Annual Report of the*

Director of the Administrative Office of the United States Courts, supra at 135; in fiscal year 1981, EEOC filed 229 direct suits and intervened in six private suits, *Equal Employment Opportunity Commission, 16th Annual Report* 25 (1982). In the year ending June 30, 1980, there were 5,117 Title VII suits filed in the federal courts, *Annual Report of the Director of the Administrative Office of the United States Courts, supra* at 135; in fiscal year 1980, EEOC filed 200 direct suits and intervened in 10, *Equal Employment Opportunity Commission, 15th Annual Report* 14 (1982). The supposed "unlimited scope of the EEOC's litigating zeal" that petitioners decry, Pet. 16, simply is not borne out by the facts. There is no basis to believe that EEOC will not marshal its resources wisely and select its cases carefully. Third, if the result of this clear reading of the intervention provisions of Title VII and their legislative history leads to more federal court litigation than would the unsupportable interpretation advanced by petitioners, the appropriate forum to petition is not this Court, but Congress.

II. The Tenth Circuit Was Correct in Finding Mandamus Inappropriate in This Case.

Finally, under the decisions of this Court, the Tenth Circuit was clearly correct in holding that mandamus is not appropriate under the circumstances of this case. In *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. 33, 35 (1980), this Court narrowly confined the use of the writ by ruling that "[o]nly exceptional circumstances amounting to a judicial usurpation of power, will justify the invocation of this extraordinary remedy."

The primary reason for restricting the use of mandamus is the congressional policy underlying the final deci-

sion rule.[7] It is "in the interest of the fair and prompt administration of justice to discourage piecemeal litigation." *Kerr v. United States District Court*, 426 U.S. 394, 403 (1976). "It has been Congress' determination since the Judiciary Act of 1789 that as a general rule appellate review should be postponed until after final judgment has been rendered by the trial court." *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. 33, 35 (1980). To protect the integrity of the final judgment rule and confine the use of mandamus to extraordinary circumstances, this Court has required that a party seeking issuance of the writ "have no other adequate means to obtain the relief he desires . . . and that he satisfy the burden of showing that [his] right is clear and indisputable." *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. at 35, *quoting Bankers Life & Casualty Co. v. Holland*, 346 U.S. 379, 384 (1953), and *United States v. Duell*, 172 U.S. 576, 582 (1899) (in-

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7. Petitioners claim that this Court should review the decisions of the District Court and the Tenth Circuit because they are "for all practical purposes" final. Pet. 15 n.5. Apparently, petitioners are referring to the "collateral order doctrine" of *Cohen v. Beneficial Industrial Loan Corp.*, 337 U.S. 541 (1949), under which a "small class" of orders that do not end the litigation may nevertheless be appealable as "final." There are three requirements for application of the collateral order doctrine. "[T]he order must conclusively determine the disputed question, resolve an important issue completely separate from the merits of the action, and be effectively unreviewable on appeal from a final judgment." *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 468 (1978). Without even discussing the first two factors, it is clear that the third is not met in this case. Assuming that the District Court's ruling was erroneous, any resulting harm to petitioners can be corrected on appeal from a final judgment. This is not a situation in which "denial of immediate review would render impossible any review whatsoever." *Compare Coopers & Lybrand v. Livesay, supra* (no immediate appeal from order decertifying class action) and *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368 (1981) (no immediate appeal from pretrial denial of motion to disqualify counsel in civil case) *with Nixon v. Fitzgerald*, 457 U.S. 731 (1982) (order denying claim of absolute immunity is appealable under *Cohen*).

ternal quotation marks omitted for simplicity). As the Tenth Circuit has noted:

> For mandamus to issue there must be (1) a clear right in the plaintiff to the relief sought; (2) a plainly defined and preemptory duty on the part of the defendant to do the action in question; and (3) no other adequate remedy available.

Hadley Memorial Hospital, Inc. v. Schweiker, 689 F.2d 905, 912 (10th Cir. 1982). None of these factors is present here.

CONCLUSION

The decisions of the District Court and the Court of Appeals for the Tenth Circuit were correct. Petitioners have failed to show that these rulings were erroneous in any respect.

Respectfully submitted,

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BEST AVAILABLE COPY

(PLEASE PRINT OR TYPE)

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...RGE OF DISCRI...NATION	EEOC CHARGE NO. TKC 6-0227	FORM APPROVED OMB NO. 124-R0001

INSTRUCTIONS

...e a complaint, fill in this form and mail it to the Equal Employment ...ity Commission's District Office in your area. In most cases, a charge ...filed with the EEOC within a specified time after the discriminatory act ...ace. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS ...AS POSSIBLE. *(Attach extra sheets of paper if necessary.)*

CAUSE OF DISCRIMINATION

- ☐ RACE OR COLOR
- ☐ SEX
- ☒ RELIGIOUS CREED
- ☐ NATIONAL ORIGIN

(Indicate Mr. or Ms.) Ms. Phyllis J. Wilson		DATE OF BIRTH 5/9/47
STREET ADDRESS 4910 Barkley Apt. 79	COUNTY Johnson	SOCIAL SECURITY NO. 509-48-7050
CITY, STATE, AND ZIP CODE Mission, Kansas 66202		TELEPHONE NO. *(Include area code)* 831-9614 (Area Code 913)

THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME

NAME *(Indicate Mr. or Ms.)* Mr. Arnold Hoffman		TELEPHONE NO. *(Include area code)* 913/888-4885
STREET ADDRESS 12216 W. 79th Terrace	CITY, STATE, AND ZIP CODE Lenexa, Kansas 66216	

LIST THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST YOU *(If more than one, list all)*

NAME United Telecommunications, Inc., & United Systems Services, Inc. (See attached list A)		TELEPHONE NO. *(Include area code)* 913/ 384-7400
STREET ADDRESS 2330 Johnson Drive	CITY, STATE, AND ZIP CODE Westwood, Kansas 66205	

OTHERS WHO DISCRIMINATED AGAINST YOU *(If any)*	

CHARGE FILED WITH STATE/LOCAL GOV'T. AGENCY ☒ YES ☐ NO	DATE FILED July 23, 1975	AGENCY CHARGE FILED WITH *(Name and address)* Kansas Commission on Civil Rights, State Capitol Building, Topeka, Kansas 66003
APPROXIMATE NO. OF EMPLOYEES/MEMBERS OF COMPANY OR UNION THIS CHARGE IS FILED AGAINST		DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)* May 9, 1975

Explain what unfair thing was done to you and how other persons were treated differently. Understanding that this statement is for the use of the United States Equal Employment Opportunity Commission, I hereby certify:

I charge and allege the abovenamed employer is engaged in unlawful employment practices in violation of Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Law of 1972 . United Telecommunications, Inc. has maintained a continuing policy of sex discrimination toward me in compensation, terms, conditions and privileges of employment without a valid business motive. The company distinguished on the basis of sex in determining my salary, promotions and training opportunities and their discriminatory actions culminated in my being unjustifiably discharged from employment on May 9, 1975. These discriminatory acts have been, in part, a response to my efforts in my position in the United Telecommunications, Inc. industrial relations department to change company employment practices forbidden by Title VII. These harrassing and discriminatory practices violate Section 704(a) of Title VII. (Continued on attached sheet)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

DATE 7/23/75	CHARGING PARTY *(Signature)* Phyllis Wilson

Subscribed and sworn to before this EEOC representative.

DATE	SIGNATURE AND TITLE

NOTARY PUBLIC

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE *(Day, month, and year)* July 23, 1975

SIGNATURE *(If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the District Office. The Commission will notarize the charge for you at a later date.)*

Barbara M Riddle

BARBARA M. RIDDLE M.C.E. 10/9/78

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APPENDIX A

TKC6-0227

CHARGE OF DISCRIMINATION (Continued)

NAME: Ms. Phyllis J. Wilson

United Telecommunications, Inc., previously known as United Utilities, Inc. and United Systems Services, Inc., the parent company and its subsidiaries and divisions throughout the United States have also engaged in a widespread policy of discrimination in employment practices against women as a group. The discriminatory actions relate to and include hiring, promotion, compensation, terms and privileges of employment as well as training practices. Women in or eligible for managerial level positions are particularly discriminated against.

The discriminatory practices include, but are not limited to, the following:

1. Women are paid less than men for substantially similar work.

2. Women have lower salaries than men because of inequality based on sex in work assignments and promotional opportunities.

3. From Grade 14 of company job classifications up to the highest grade there are *significant* disparities in the number and percentage of women versus men employed. This is a direct result of the company's differentiation on the basis of sex.

4. Men are generally given job classifications which include more responsibility whereas women are allocated positions with responsibility levels below their capabilities.

5. The management development programs available within and outside the company include few women and

the criteria for entering such programs are vague allowing almost total discretion as to which employees are eligible.

6. Female applicants are channeled into the lowest paying job categories generally as operators or in clerical positions while men are recruited into higher-paying more prestigious jobs.

7. Among the obstacles to upward mobility within the company for women employees are the obscure and informal procedures of promotion and assignment to those departments with opportunities for progression to management level positions. The company does not post job openings or in other ways make available management openings known to women employees.

8. Women are not given adequate craft and technical training.

The above-named employer has also discriminated on the basis of religion against Jews as a group in employment practices relating to and including hiring, promotion, compensation, terms and privileges of employment as well as training practices. Jews in or eligible for managerial level positions are particularly discriminated against.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

PHYLLIS WILSON HOFFMAN, et al., Plaintiff,	)	
and	)	
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	)	Case No.
Applicant for Intervention,	)	76–223–C2
vs.	)	
UNITED TELECOMMUNICATIONS, INC., et al.,	)	
Defendants.	)	

CERTIFICATE OF GENERAL PUBLIC IMPORTANCE

The U.S. Equal Employment Opportunity Commission has authorized the undersigned, the General Counsel of the Commission, to certify to the Court and I hereby certify that the Commission has determined this action to be of general public importance in accordance with 706(f)(1) of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. Section 2000e-5(f)(1) (Supp. V, 1975).

Respectfully submitted,

/s/ Abner Sibal
Abner W. Sibal
General Counsel